

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "B", HYDERABAD

BEFORE
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER
&
SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER

आ.अपी.सं / ITA No. 449/Hyd/2024
(निर्धारण वर्ष / Assessment Year: 2017-18)

JKS Agri Mall Vs. DCIT, Circle-3(1)
Warangal Hyderabad
[PAN : AAFFJ8681B]

अपीलार्थी / Appellant प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: S.Sandhya, Adv
राजस्व द्वारा/Revenue by: Ms. Sheetal Sarin, DR

सुनवाई की तारीख/Date of hearing: 25/07/2024
घोषणा की तारीख/Pronouncement on: 16/08/2024

आदेश / ORDER

PER K. NARASIMHA CHARY, J.M:

Aggrieved by the order dated 21/02/2024 passed by the learned Commissioner of Income Tax (Appeals)- National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), in the case of JKS Agri Mall ("the assessee") for the assessment year 2017-18, assessee preferred this appeal, with a delay of four days, stating that due to the pre occupations of the chartered accountant, it could not be filed within time and the delay is only 4 days and the same may be condoned. Having regard to the facts and circumstances of the case, we condone the delay and proceed to hear and decide the matter on merits.

2. At the outset Ld. AR submits that the learned CIT(A) recorded that so many notices were issued and because of the nonappearance of the assessee he proceeded ex parte and dismissed the appeal in limine. It is the submission that the assessee never received any such notices and since this case belongs to the initial years of faceless appeals, not being well conversant with the online procedures, the assessee did not verify the emails. Her main plank of argument is that even in the absence of the assessee since the assessment order is available before the learned CIT(A), learned CIT(A) could have proceeded to advert to the merits of the case and disposed of by referring to the various aspects of merits. She, therefore, submits that the provisions under section 250(6) of the Income Tax Act, 1961 (for short "the Act") are not complied with.

4. Though the learned DR vehemently relied on the orders of the Revenue authorities, the fact remains that the learned CIT(A) did not refer to the facts nor did he dispose of the appeal on merits. Even in the absence of the assessee, it is always open for the learned CIT(A) to deal with the matter on merits, instead of dismissing the same.

5. As could be seen from the record, we find that the learned CIT(A) disposed-of the appeal ex-parte, observing that various notices have been issued to the assessee, but the assessee failed to comply with any of such notices nor did the assessee produce any documents, explanation and evidence to substantiate the grounds raised.

6. Requirement of law under section 250(6) of the Act is that the order of the Commissioner(Appeals) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reason for the decision. Even in the absence of the assessee, it is always open for the learned CIT(A) to deal with the matter on merits instead of dismissing the same in limine.

7. Having regard to the facts and circumstances of the case, we are of the considered opinion that the impugned order does not comply with the requirement of Section 250(6) of the Act and cannot be sustained. Learned AR submitted that since the learned Assessing Officer also finalized the assessment under section 144 of the Act, affording an opportunity to the assessee to prosecute its case before the learned Assessing Officer, by submitting the documents/evidences, the highest that would happen is that a case could be decided on merits. We consider this request reasonable and it would be in the interest of justice to remit the issue to the file of the learned Assessing Officer for considering the submissions of the assessee and take a fresh view in the matter.

8. With this view of the matter, we set aside the impugned order and restore the issue to the file of the learned Assessing Officer to decide the issue afresh. We direct the assessee to co-operate with the learned Assessing Officer in getting the matter disposed of on merits, without seeking any adjournments and the learned Assessing Officer to take a fresh look at the matter, after affording a reasonable opportunity of being heard to the assessee. Grounds are accordingly treated as allowed for statistical purposes.

9. In the result, appeal of the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court on this the 16th day of August, 2024.

Sd/-
(MADHUSUDAN SAWDIA)
ACCOUNTANT MEMBER

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,

Dated: 16/08/2024

Copy forwarded to:

1. M/s JKS Agri Mall, 6-3-4/5/42, 43, 44, Hyderabad, Road Jangaon, Warangal
2. The DCIIT, Circle-3(1), Signature Towers, Hyderabad.
3. The Pr.CIT
4. DR, ITAT, Hyderabad.
5. GUARD FILE

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ASSISTANT REGISTRAR
ITAT, HYDERABAD